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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,093	08/06/2003	Jack V. Henderson	19350-094719	9668

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EXAMINER

FISCHMANN, BRYAN R

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 04/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/635,093

Applicant(s)

HENDERSON ET AL.

Examiner

Bryan Fischmann

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9 and 10 is/are allowed.
- 6) ☒ Claim(s) 1 and 3-6 is/are rejected.
- 7) ☒ Claim(s) 7 and 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Acknowledgments

1. The Amendment filed 2-28-2005 has been entered.

Specification

2. The disclosure is objected to because of the following:

A) The upper portion of page 4 is objected to, as it is considered unclear how motor 30, which has, as best understood, though not clearly illustrated in the drawings, a generally vertically oriented motor shaft 35, is able to turn transmission sector gear 33, which is also "vertically oriented".

It would seem that motor shaft 35 would have a gear on the end of the shaft which would be "horizontally oriented", such that the gear teeth of the gear on the motor shaft would then be "perpendicular" to the teeth on gear 33, such that they would be incapable of meshing.

Drawings

3. The drawings are objected to as reference number 35 is described as "shaft...of the motor" on page 4 of the specification. However, reference number 35 of Figure 2 instead appears to correspond to motor 30 "casing".
4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the motor operatively connected to said linkage for moving said linkage and said step, as recited in claims 4

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and 9 must be shown or the features canceled from the claims. No new matter should be entered.

Note that the drawing figures, see Figures 2 and 3, for example, leave unclear how power, and subsequently motion, is transferred between the motor 30 shaft and the sector gear 33.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1 and 3-6 are rejected under 35 U.S.C. 102(e) as being anticipated by
Leitner, US Patent 6,641,158.

Leitner teaches running board assembly for accommodating access to a motor vehicle having at least one inner rocker panel (12, 14), said running board assembly comprising:

a plurality of mounting brackets (34a, 34b) fixedly secured (see Figure 2) to the inner rocker panel; and

a step (24) movably secured (via 30) to said plurality of mounting brackets, said step defining a stepping surface (upper portion of 24 Figure 1), a peripheral edge (24A) extending around said step and a contoured surface (lower portion of 24 Figure 1) shaped to provide an inner rocker panel appearance opposite said stepping surface (compare Figure 1 of Leitner to Instant Figure 3), said step movable between a deployed position (Figure 1) providing access to said stepping surface and a stowed

position (Figure 1) wherein a portion of said peripheral edge abuts the motor vehicle and said contoured surface merges with adjacent vehicle panels (Figure 1).

Regarding claim 3, see reference numbers 30 or 38.

Regarding claim 4, see reference number 46.

Regarding claim 5, see reference number 26 or 28.

Regarding claim 6, see reference numbers 48 and 50.

Allowable Subject Matter

7. Claims 9 and 10 are allowed.

8. Claims 7 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Reasons for Allowance

9. The following is an Examiner's statement of reasons for allowance of newly added independent claim 9:

Claim 9 recites the limitation of a running board assembly for accommodating access to a motor vehicle, said running board assembly comprising; a plurality of mounting brackets, a step movably secured to said plurality of mounting brackets, a linkage, a motor, and a transmission having a sector gear secured to said step and operatively engaging said motor, said sector gear having an arcuate toothed portion and defining a slot having upper and lower slot ends. This limitation, in combination with the other limitations of claim 9, were not found in the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Examiner's Comments

10. The amendments to claim 1 have overcome the 102 rejection of claims 1-3 and 103 rejections of claims 4-6 set forth in the last Office Action dated 11-24-2004. However, the amendments to claim 1 required that a new grounds of rejection under 35 USC 102 of claims 1 and 3-6 be set forth, as detailed above. accordingly, the comments in the "remarks" portion of the amendment dated 02-28-2005 regarding the prior art utilized in the 102 and 103 rejections as set forth in the last Office Action have been considered, but are moot in view of the new grounds of rejection set forth due to the amendments to claim 1.

Conclusion

11. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Leitner ('257) – teaches retractable steps

13. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Bryan Fischmann whose telephone number is (571) 272-6694. The examiner can normally be reached on Monday through Friday from 9:00 to 5:30.

If attempts to reach the Examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis, can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 7-11-5
BRYAN FISCHMANN
PRIMARY EXAMINER